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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92059244
Party	Plaintiff Garan Services Corp.
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Submission	Motion to Amend Pleading/Amended Pleading
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Date	10/19/2015
Attachments	Amended Petition to Cancel - 92059244.pdf(213012 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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GARAN SERVICES CORP.	:	
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Petitioner,	:	
	:	
v.	:	Cancellation No. 92059244
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NEWMAN	:	
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	:	
Respondent.	:	
	:	
	x	

AMENDED PETITION OF CANCELLATION

Petitioner, Garan Services Corp., 200 Madison Ave., New York, New York 10016, believes that it is being damaged by Registration No. 4,284,412, issued February 5, 2013, for the trademark NEW MAN in Design for use on Clothing, namely, bathing suits, blouses, boots, boot uppers, half-boots, suspenders, belts, shawls, sweaters, socks, shirts, shirt fronts, underwear, suits, neckties, sashes for wear, scarves, gloves, vests, waterproof coats, skirts, singlets, coats, trousers, overcoats, parkas, capes, pelisses, jumpers, dresses, stuff jackets, jackets, tee-shirts, shorts, Bermuda shorts, tops, tank tops, camisoles, dressing gowns, pajamas, slippers, bathing caps, bath slippers, sandals, stockings, tights, breeches for wear, briefs, underwear, brassieres, bandanas, turbans, house coats, esparto shoes and sandals, petticoats, ascots, fingerless gloves, bedroom slippers; footwear; headgear, namely, hats, knitted caps, caps, cap peaks ; leather clothing, namely, shirts, pants, coats, dresses, boots, boots uppers, suspenders, belts, underwear, neckties,

gloves, vests, skirts, jackets, shorts, Bermuda shorts, trousers, overcoats, parkas, capes, pelisses, slippers, sandals, fingerless gloves, bedroom slippers; imitation leather clothing, namely, shirts, pants, coats, dresses, boots, boots uppers, suspenders, belts, underwear, neckties, gloves, vests, skirts, jackets, shorts, Bermuda shorts, trousers, overcoats, parkas, capes, pelisses, slippers, sandals, fingerless gloves, bedroom slippers; knitwear, namely, knitted blouses, knitted caps, shawls, sweaters, socks, sashes for wear, scarves, gloves, vests, skirts, dresses, coats, capes, pelisses, jumpers, fingerless gloves; undershorts, namely, underwear boy shorts in International Class 025 and therefore petitions to cancel said registration.

As grounds for its petition, Petitioner, by and through its undersigned attorneys, alleges as follows:

1. Petitioner, Garan Services Corp., is the owner of Trademark Application Serial No. 86353923, filed July 31, 2014, to register the mark NEW MAN in Design for tops and bottoms in International Class 025.

2. On or about November 14, 2014, an Office Action was issued in Petitioner's Trademark Application Serial No. 86353923 raising a Section 2(d) refusal based upon likelihood of confusion with the mark in U.S. Registration No. 4,284,412, among other registrations.

3. U.S. Registration No. 4,284,412 cited against Petitioner's Trademark Application Serial No. 86353923 relates to a mark and goods identical or similar to the mark and goods of Petitioner's Trademark Application Serial No. 86353923.

4. Upon information and belief, Registration No. 4,284,412 is currently owned by Newman, a Simplified Joint Stock Company France, whose address is 25-27 rue de Mail, F-75002 Paris, France ("Respondent").

5. Although Petitioner had a bona fide intent to use the mark NEW MAN in Design in commerce on clothing from at least as early as the filing date of Trademark Application Serial No. 86353923, Petitioner refrained from doing so because of the apprehension that Respondent's U.S. Registration No. 4,284,412 would be used in an unfair manner to interfere with Petitioner's use of the mark NEW MAN in commerce.

6. Prior to filing the Petition for Cancellation in this proceeding, an Internet search was conducted to determine whether Respondent was using the trademark NEW MAN in Design on clothing in commerce.

7. That Internet search failed to identify any use by Respondent of the trademark NEW MAN in Design on clothing in commerce.

8. That Internet search did locate a news article which stated that the Respondent had closed its last factory in France.

9. Based upon the results of the Internet search, upon information and belief, Petitioner believed that the trademark NEW MAN in Design was not in use by Respondent in commerce on some or all of the above identified goods in U.S. Registration No. 4,284,412 at any

time, including any time after February 5, 2013, the date of issuance of Registration No. 4,284,412.

10. Based upon the results of the Internet search, upon information and belief, Petitioner believed that Registrant never had a bona fide intention to use the trademark NEW MAN in Design in commerce on some or all of the above identified goods in Registration No. 4,284,412 at any time, including any time after February 5, 2013, the date of issuance of Registration No. 4,284,412.

11. Based upon the results of the Internet search, upon information and belief, Petitioner believed that the trademark NEW MAN in Design had not been in use by Respondent in commerce on some or all of the above identified goods in U.S. Registration No. 4,284,412 for a period of less than three years and that Respondent had and has no intent to use or to resume use of the trademark NEW MAN in Design in commerce on some or all of the above identified goods in U.S. Registration No. 4,284,412.

12. Upon information and belief, Respondent has abandoned any right it may have, or may have had, to use the trademark NEW MAN in Design on the goods identified in U. S. Registration No. 4,284,412.

13. Upon information and belief, Respondent has abandoned U. S. Registration No. 4,284,412.

14. Upon information and belief, U.S. Registration No. 4,284,412 is invalid because of abandonment and should be cancelled in its entirety.

15. By reason of the foregoing, Petitioner will be damaged by the continued registration of the mark of U.S. Registration No. 4,284,412.

WHEREFORE, it is respectfully requested that this amended petition for cancellation be sustained and that the U.S. Registration No. 4,284,412 be cancelled.

Respectfully submitted,

Dated: October 19, 2015

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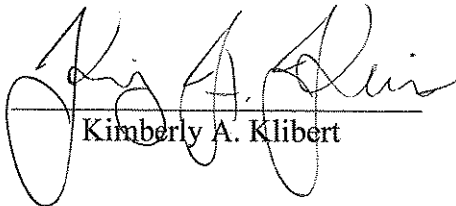
Garan Services Corp.

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Amended Petition for Cancellation was served by First Class Mail, with sufficient postage prepaid, on this 19th day of October, 2015, upon counsel for Respondent:

**JULIE B. SEYLER
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BY:



Kimberly A. Klibert